



Billing code 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, and 758

[Docket No. 140221165-4621-02]

RIN 0694-AG11

Corrections and Clarifications to the Export Administration Regulations; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correcting amendments.

SUMMARY: The Bureau of Industry and Security (BIS) is correcting certain provisions of the Export Administration Regulations that were amended by two final rules appearing in the **Federal Register** on June 5, 2014 and on May 13, 2014. Both rules amended a number of the same provisions of the Export Administration Regulations, and certain language was either removed or changed inadvertently. This final rule corrects those provisions to accurately reflect the revisions made by both rules.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-2440, Fax: (202) 482-3355, E-mail: rp2@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) publishes this final rule to make corrections to certain provisions of the Export Administration Regulations that were amended by two final rules appearing in the **Federal Register** on June 5, 2014 (79 FR 32612) and on May 13, 2014 (79 FR 27417). These two rules were drafted and finalized simultaneously, however they separately revised some of the same provisions of the Export Administration Regulations and certain language was either removed or changed inadvertently. This final rule corrects those provisions to accurately reflect the revisions made by both rules. These corrections include reinserting two sentences inadvertently removed because of an incorrect instruction in the June 5 rule, and reinserting a phrase inadvertently removed by the May 13 rule, which did not reflect a correction made in a final rule published on October 3, 2013 (78 FR 61745).

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule, which is a consolidation of corrections and clarifications of final rules published in 2013 and 2014, has been determined to be not significant for purposes of Executive Order 12866.

2. The Department of Commerce finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act otherwise requiring prior notice and the opportunity for public comment because they are unnecessary. The revisions made by this rule are technical corrections to provisions that have already been subject to public notice and the opportunity to comment. These revisions in this rule are important to get in place as soon as possible to avoid confusion by the public regarding the intent and meaning of recent changes to the EAR. In addition, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). As mentioned previously, the revisions made by this rule are technical corrections that need to be in place as soon as possible to avoid confusion by the public regarding the intent and meaning of recent changes to the EAR.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for these amendments by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

List of Subjects

15 CFR Parts 740 and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

Accordingly, parts 740, 742 and 758 of the Export Administration Regulations (15 CFR parts 730-774) are corrected as follows:

PART 740 – [AMENDED]

1. The authority citation for 15 CFR part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014).

2. In § 740.10, revise paragraph (b)(1) to read as follows:

§740.10 License Exception Servicing and replacement of parts and equipment (RPL).

(b) ***

(1) The provisions of this paragraph (b) authorize the export and reexport to any destination, except for 9x515 or “600 series” items to destinations identified in Country Group D:5 (see Supplement No. 1 to this part) or otherwise prohibited under the EAR, of commodities and software that were sent to the United States or to a foreign party for servicing and replacement of commodities and software “subject to the EAR” (see § 734.2(a) of the EAR) that are defective or that an end user or ultimate consignee has found unacceptable.

3. In § 740.20, add two new sentences after the second sentence and revise the last two sentences of paragraph (d)(2) to read as follows:

§740.20 License Exception Strategic Trade Authorization (STA).

(d) * * *

(2) *Prior Consignee Statement.* One statement may be used for multiple shipments of the same items between the same parties so long as the party names, the description(s) of the item(s), and the ECCNs are correct. The exporter, reexporter, and transferor must maintain a log or other record that identifies each shipment made pursuant to this section and the specific consignee

statement that is associated with each shipment. Paragraph (d)(2)(viii) is also required for transactions including 9x515 items.

[INSERT NAME OF CONSIGNEE]:

PART 742 – [AMENDED]

4. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

5. In §742.6, revise the first sentence of paragraph (b)(1) to read as follows:

§742.6 Regional Stability.

(b) *** (1) Applications for exports and reexports of 9x515 and “600 series” items will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States, including the foreign policy interest of promoting the observance of human rights throughout the world. ***

PART 758 – [AMENDED]

6. The authority citation for part 758 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014).

7. In section 758.1, revise paragraph (b)(3) to read as follows:

§758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).

(b) ***

(3) For all exports of 9x515 or “600 series” items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or “600 series” ECCN regardless of value or destination, including exports to Canada;

DATED: August 11, 2014

Matthew S. Borman

Deputy Assistant Secretary for Export Administration

[FR Doc. 2014-19348 Filed 08/15/2014 at 8:45 am; Publication Date: 08/18/2014]